

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AMERICAN ELECTRIC POWER	)	
	)	
_____	)	CASE NO. 96-510
	)	
ALLEGED VIOLATION OF COMMISSION	)	
REGULATIONS 807 KAR 5:006 AND 807 KAR 5:041	)	

O R D E R

American Electric Power ("AEP") is an investor-owned corporation doing business in Kentucky which engages in the generation, production, transmission, and distribution of electricity to or for the public, for compensation, for lights, heat, power, or other uses. It is a utility subject to Commission jurisdiction. KRS 278.010.

KRS 278.280(2) directs the Commission to prescribe rules and regulations for the performance of services by utilities. Pursuant to this statutory directive, the Commission promulgated 807 KAR 5:041, Section 3, which requires electric utilities to maintain their plant and facilities in accordance with the standards of the National Electrical Safety Code (1990 Edition) ("NESC"). The Commission has also promulgated 807 KAR 5:006, Section 25(3), which requires each utility to keep appropriate inspection records. Such records should identify the inspection made, deficiencies found, and action taken to correct the deficiencies. The Commission likewise has promulgated 807 KAR 5:006, Section 25(4)(d), which requires each utility to inspect electric lines operating at voltages of less than 69 KV, including insulators, conductors, and supporting facilities, at intervals not to exceed 2 years.

Commission Staff submitted to the Commission a Utility Accident Investigation Report involving AEP dated September 24, 1996, which alleged:

1. On July 5, 1996, due to the fact that a mimosa tree had grown into a 34.5 KV three phase line near the residence of Nora Morris in Leslie County, Kentucky, an outside phase conductor burned in two and fell on Ms. Morris's chain link fence and house. The house was damaged as a result of the contact. Although the elderly Ms. Morris was home at the time of the incident, she was not injured.

2. AEP's failure to trim or remove the tree represented an apparent violation of NESC Rule 218 A.1.,<sup>1</sup> and thus an apparent violation of 807 KAR 5:041, Section 3, which requires AEP to maintain its plant and facilities in accordance with NESC standards.

3. AEP had no record of any inspection of the line prior to the incident. This lack of inspection records represented an apparent violation of 807 KAR 5:006, Section 25(3), which requires AEP to keep appropriate inspection records.

4. As AEP had no inspection records there was no evidence that the line in question had been inspected within the last 2 years as required.<sup>2</sup> This failure to inspect at intervals not to exceed 2 years represented an apparent violation of 807 KAR 5:006, Section 25(4)(d), which requires AEP to conduct such inspections.

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<sup>1</sup> NESC 218 A.1: Trees which may interfere with ungrounded supply conductors should be trimmed or removed.

NOTE: Normal tree growth, the combined movement of trees and conductors under adverse weather conditions, voltage, and sagging of conductors at elevated temperatures are among the factors to be considered in determining the extent of trimming required.

<sup>2</sup> The fact that the mimosa tree that had grown into the line had been dead "for some time," as indicated in AEP's accident report, makes it unlikely that the line had been inspected recently.

Based on its review of the Utility Accident Investigation Report, and being otherwise sufficiently advised, the Commission found that prima facie evidence existed that as a result of AEP's failure to inspect the line and maintain it in compliance with the NESC Rule 218 A.1., AEP was in probable violation of 807 KAR 5:041, Section 3; 807 KAR 5:006, Section 25(3); and 807 KAR 5:006, Section 25(4)(d). As a result, the Commission issued an Order on November 11, 1996, which directed AEP to submit to the Commission within 20 days a written response to the allegations contained in the Utility Accident Investigation Report and the Order; and directed AEP to appear before the Commission at a hearing for the purpose of presenting evidence concerning the alleged violations of 807 KAR 5:006, Section 25(3); 807 KAR 5:006, Section 25(4)(d); and 807 KAR 5:041, Section 3, and of showing cause why it should not be subject to the penalties prescribed in KRS 278.990(1) for its alleged failure to comply with Commission regulations.

While the Commission had directed AEP to file a written response to its Order by December 2, 1996, settlement discussions delayed the filing of that response. A written response was finally received January 3, 1997. In its response, AEP agreed with the facts contained in the Commission's Order and the Utility Accident Investigation Report in that it did appear to have "mistakenly failed to inspect and maintain inspection records that would have detected the tree's growth into the power lines." AEP assured the Commission that it recognizes its obligations under Commission regulations and that it does have a pole inspection program in place. In fact, AEP stated that it is making a concentrated effort in its Hazard division to ensure compliance with its internal procedures and Commission regulations. AEP in its response went on to dispute that its violations of Commission regulations were willful.

The hearing in this matter convened as scheduled on January 7, 1997. Immediately preceding the hearing, AEP and Commission Staff had reached a settlement regarding the issues involved in this proceeding. Based on the evidence of record, and being otherwise sufficiently advised, the Commission finds that:

1. The following facts are undisputed:<sup>3</sup>

a. On July 5, 1996, due to the fact that a mimosa tree had grown into a 34.5 KV three phase line near the residence of Nora Morris in Leslie County, Kentucky, an outside phase conductor burned in two and fell on Ms. Morris's chain link fence and house. The house was damaged as a result of the contact. Although the elderly Ms. Morris was home at the time of the incident, she was not injured.

b. AEP's failure to trim or remove the tree represented a violation of NESC Rule 218 A.1., and thus a violation of 807 KAR 5:041, Section 3, which requires AEP to maintain its plant and facilities in accordance with NESC standards.

c. AEP had no record of any inspection of the line prior to the incident. This lack of inspection records represents a violation of 807 KAR 5:006, Section 25(3), which requires AEP to keep appropriate inspection records.

d. As AEP had no inspection records, there was no evidence that the line in question had been inspected within the last 2 years as required. This failure to inspect at intervals not to exceed 2 years represents a violation of 807 KAR 5:006, Section 25(4)(d), which requires AEP to conduct such inspections.

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<sup>3</sup> January 7, 1997 Transcript of Evidence at 5.

2. According to AEP, it is committed to completing its 2-year inspection cycle by the end of 1997.<sup>4</sup>

3. According to AEP, it has taken steps to ensure it maintains records of all inspections.<sup>5</sup>

4. According to AEP, it has restructured its corporate functions in such a way as to more uniformly distribute its resources so as to better operate and maintain its facilities.<sup>6</sup>

5. According to AEP, the steps it has taken are intended to be effective in preventing incidents such as the one that is the subject of this proceeding.<sup>7</sup>

6. According to AEP, its reorganization has assured that its employees are aware of the need to maintain inspection records, and to keep records of what deficiencies are found and what corrections have been made.<sup>8</sup>

7. As a result of the violations identified above, AEP has agreed to pay a \$1,500 fine.<sup>9</sup>

IT IS THEREFORE ORDERED that:

1. AEP is hereby assessed a fine of \$1500.00 to be paid in full within 10 days of the date of this Order by certified check or money order made payable to the Kentucky

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<sup>4</sup> Id. at 7.

<sup>5</sup> Id. at 8.

<sup>6</sup> Id. at 8-9.

<sup>7</sup> Id. at 9.

<sup>8</sup> Id. at 10-11.

<sup>9</sup> Id. at 5 and 10.

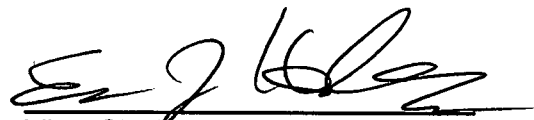
State Treasurer and mailed to the Office of General Counsel, Public Service Commission,  
P.O. Box 615, Frankfort, Kentucky 40602.


2. AEP shall comply with all provisions of KRS Chapter 278 and all regulations promulgated pursuant thereto, and shall maintain its plant and facilities in accordance with NESC standards. In particular, AEP shall conduct regular inspections of its system, and maintain appropriate records of those inspections, as required by law.

Done at Frankfort, Kentucky, this 27th day of March, 1997.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director